

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 412 of 1994

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CHETANBHAI M PATEL

Versus

BABHUBHAI I DUDHWALA

Appearance:

MR NV ANJARIA for MR SN SHELAT for Appellants

MR RR MARSHALL for Respondents

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 02/11/98

ORAL JUDGEMENT

1. Heard the learned counsel for the respective parties.

2. In view of the hearing and discussion it appears to me, looking to the nature of the controversy and the relevant facts disclosed, that the interests of justice would not necessarily be served by deciding the present

controversy on the merits of the impugned order inasmuch as the trial court may be influenced by the order passed in the present appeal, if the same is on merits. No doubt, any order passed on merits in the present appeal, in law, would be an order in respect of the impugned order. Nevertheless the apprehension that the trial court may ultimately be influenced by such an order, although in law it need not be so influenced, is not an apprehension without reason. It, therefore, appears to me that the interests of justice would best be served by directing the trial court to hear and dispose of the pending suit as expeditiously as possible and in any case before 31st March 1999, particularly since it is an old suit of the year 1993.

3. It is accordingly directed.

4. It is clarified that all contentions sought to be raised by the appellants-original defendants are kept open, and the trial court shall consider the same while deciding the suit finally on merits and in accordance with law.

5. In the premises aforesaid, the present appeal is accordingly disposed of with no order as to costs.

6. The Registry is directed to send yadi to the trial court forthwith i.e. not later than 6th November 1998. Direct service is also permitted.

02.11.98 (Y.B. BHATT J.)